

§ 48.4081-8

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of subsequent seller that the claimant received with respect to that taxable fuel.

(e) *Time for filing claim.* A claim for refund under section 4081(e) may be filed any time after the claimant has filed the return of the second tax and before the end of the period prescribed by section 6511 for the filing of a claim for a refund.

(f) *Examples.* The following examples illustrate the provisions of this section.

Example 1. (i) A is a taxable fuel registrant that owns 10,000 gallons of gasoline, and on April 5, 1996, is transporting the gasoline by barge on a waterway in the United States. That day, A sells the gasoline to B, a person that is not a taxable fuel registrant. A is liable for tax on the sale under § 48.4081-3(f). A pays this tax to the government and attaches to its return of the gasoline tax for the 2nd quarter of 1996 the first taxpayer's report described in paragraph (c) of this section. A also gives a copy of this report to B.

(ii) On April 9, 1996, B sells the gasoline to C, a taxable fuel registrant. B also gives C a copy of the first taxpayer's report and the statement of subsequent seller (required under paragraph (c)(4) of this section). On April 14, 1996, the gasoline is removed from a terminal at the rack. C is the position holder of the gasoline at the time of the removal and thus is liable for tax on the removal under § 48.4081-2(c)(1). C pays this tax to the government.

(iii) After C has filed a return of the second tax and before the end of the period prescribed by section 6511 for filing a claim for a refund, C files a claim for a refund of the second tax. The claim is in the form prescribed in paragraph (d)(2) of this section. C includes with its claim a copy of the first taxpayer's report and statement of subsequent seller. Because the conditions to allowance of a refund under paragraph (b) of this section have been met, C is allowed a refund of the second tax.

Example 2. The facts are the same as in *Example 1* except that A does not pay the tax to the government. Because the first tax was not paid to the government as required by paragraph (b)(1) of this section, the conditions to allowance of a refund under paragraph (b) of this section have not been met. Therefore, C is not allowed a refund of the second tax.

(g) *Effective date.* This section is effective in the case of taxable fuel with

respect to which the first tax is imposed after September 30, 1995.

[T.D. 8421, 57 FR 32424, July 22, 1992, as amended by T.D. 8609, 60 FR 40086, Aug. 7, 1995; T.D. 8659, 61 FR 10457, Mar. 14, 1996; T.D. 8879, 65 FR 17157, Mar. 31, 2000]

§ 48.4081-8 Taxable fuel; measurement.

(a) *In general.* Volumes of taxable fuel may be measured on the basis of actual volumetric gallons or gallons adjusted to 60 degrees Fahrenheit.

(b) *Effective date.* This section is applicable January 1, 1994.

[66 FR 27597, May 18, 2001]

§ 48.4082-1 Diesel fuel and kerosene; exemption for dyed fuel.

(a) *Exemption.* Tax is not imposed by section 4081 on the removal, entry, or sale of any diesel fuel or kerosene if—

(1) The person otherwise liable for tax is a taxable fuel registrant;

(2) In the case of a removal from a terminal, the terminal is an approved terminal; and

(3) The diesel fuel or kerosene satisfies the dyeing and marking requirements of paragraphs (b), (c), and (d) of this section.

(b) *Dyeing requirements.* Diesel fuel or kerosene satisfies the dyeing requirement of this paragraph (b) only if the diesel fuel or kerosene contains—

(1) The dye Solvent Red 164 (and no other dye) at a concentration spectrally equivalent to at least 3.9 pounds of the solid dye standard Solvent Red 26 per thousand barrels of diesel fuel or kerosene; or

(2) Any dye of a type and in a concentration that has been approved by the Commissioner.

(c) *Marking requirements.* [Reserved]

(d) *Time for adding the dye and marker.* [Reserved]

(e) *Effective date.* This section is effective March 14, 1996.

[T.D. 8659, 61 FR 10457, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17157, Mar. 31, 2000]

§ 48.4082-2 Diesel fuel and kerosene; notice required for dyed fuel.

(a) *In general.* A legible and conspicuous notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be